

**TAB 17**

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UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

Civil Action No.: 04-11939-JGD

MICHAEL J. WHALON,  
Plaintiff,

v.

CHRISTY'S OF CAPE COD, LLC,  
Defendant.

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DEPOSITION of **LYUDMILA RAKITA, M.D.**, a witness  
called on behalf of the Defendant, taken pursuant to  
the applicable provisions of the Massachusetts Rules  
of Civil procedure, before John F. Kielty, a Notary  
Public in and for the Commonwealth of Massachusetts,  
at the offices of Lyudmila Rakita, M.D., 1342  
Belmont Street, Brockton, Massachusetts, on Tuesday,  
June 6, 2006, commencing at 10:05 a.m.

**JOHN F. KIELTY**  
2 Garrett Place  
Plymouth, Massachusetts 02360  
(508) 759-6767

1 psychiatry since completing your residency --

2 A. Yes.

3 Q. -- at BMC? Have you ever been licensed in  
4 any other occupation besides medicine?

5 A. No.

6 Q. Have you ever practiced medicine in other  
7 disciplines other than internal medicine or  
8 psychiatry?

9 A. No.

10 Q. Do you have any training in  
11 psychopharmacology?

12 A. My training and residency was based -- the  
13 main training was psychopharmacology.

14 Q. Do you have any specialization within the  
15 field of psychiatry?

16 A. No.

17 Q. Can we establish the date that you first saw  
18 Michael Whalon --

19 A. Yes.

20 Q. -- as a patient?

21 A. The first visit was March 29, 2002, my  
22 initial evaluation.

23 Q. And how did you come to see Michael Whalon?

24 A. Michael Whalon was referred to me by his

1 therapist, Anne Kronenberg, for medication  
2 evaluation and for medication management. He  
3 continued to see Anne Kronenberg for therapy.

4 Q. Do you continue to treat Michael Whalon  
5 today?

6 A. No. He drop out of treatment in 2005, last  
7 visit was April 19, 2005. I didn't hear from him  
8 after that.

9 Q. Have your services that you provided to Mr.  
10 Whalon during that approximate two-year -- actually,  
11 it would be an approximate three-year period. Were  
12 they always individual in nature?

13 A. Yes.

14 Q. In other words, you treated him alone, no  
15 marital counseling, no family counseling?

16 A. I didn't do counseling.

17 Q. Okay.

18 A. I did psychopharmacology management.

19 Q. Exclusively for --

20 A. Yes.

21 Q. -- Mr. Whalon? And you have never treated  
22 any of his family members?

23 A. No.

24 Q. Other than Anne Kronenberg, have you ever

1 A. Zyprexa.

2 Q. And did you prescribe that?

3 A. Yes.

4 Q. When Mr. Whalon was referred for treatment  
5 with you, did he arrive with any records or  
6 information?

7 A. No.

8 Q. Had you spoken with Anne Kronenberg before  
9 you saw Mr. Whalon?

10 A. No, after.

11 Q. At the time you saw Mr. Whalon, did you have  
12 any understanding as to why he was coming to see you  
13 medically?

14 A. He reported to me everything.

15 Q. What did he report to you, what was the  
16 purpose of his visit?

17 A. He reported to me having mood swings, from  
18 feeling hyper, with racing thoughts, no needs for  
19 sleep, to feeling down, depressed, anhedonic, tired,  
20 having irritability, angry outburst, feeling  
21 anxious, paranoid, sometimes hearing voices,  
22 thinking about death, with no clear intention to  
23 harm himself at that time.

24 Q. Did you during the course of your initial

1 assessment of Mr. Whalon make a diagnosis?

2 A. Definitely.

3 Q. I think that is --

4 A. Bipolar disorder 1, mixed episode.

5 Q. Now, how did you diagnose Mr. Whalon with  
6 bipolar disorder?

7 A. On the basis of his symptoms and history.

8 Q. What symptoms specifically were significant  
9 for that diagnosis?

10 A. He had different type of mood swing -- mood  
11 episodes, manic and depressive, which made me think  
12 that he had bipolar disorder. Bipolar 1 because he  
13 also had psychotic symptoms, auditory  
14 hallucinations, paranoid ideations, which my --  
15 might be the evidence of severity of manic episodes.

16 Q. And what history information that Mr. Whalon  
17 provided was significant to your diagnosis?

18 A. He had mood swings since childhood. He also  
19 had no response to treatment with antidepressant.  
20 He started on mood stabilizer by Anne Kronenberg  
21 before he came to me, on Depakote, which was not in  
22 right dose at that time, but anyway, she also was  
23 thinking about treating his -- as a bipolar patient.  
24 And a very significant moment that he had formed

1 Q. -- indicated in your testimony? Under the  
2 "Diagnosis," you have a reference to "difficulty to  
3 hold a job"?

4 A. Uh-huh. (Indicates affirmatively).

5 Q. Can you tell us if you recall what  
6 information that was based on?

7 A. This form was completed -- let me see when,  
8 actually, a year after I saw patient initially.

9 Q. Oh.

10 A. So for that year, initially, he reported  
11 that he was out of job. I don't know exactly  
12 circumstances, if he was fired or he was -- he just  
13 quit job, but after that, he tried to find another  
14 job and was not able to stay at work for decent  
15 period of time.

16 Q. And the reason I was asking relative to  
17 this form is "difficulty to hold a job," is that  
18 relevant to the diagnosis of Mr. Whalon's  
19 condition?

20 A. It is possible.

21 Q. And how is it relevant to the diagnosis of  
22 bipolar disorder?

23 A. When patient not stable emotionally, he  
24 might have difficulty to relate to other people,

1 Q. Reading this note, does this in any way  
2 refresh your memory as to this visit with Mr.  
3 Whalon?

4 A. It's written here that patient reported that  
5 he started new job, was overwhelmed at this new  
6 place. He reported feeling more depressed, tired,  
7 sleepy, and he reported not drinking for  
8 one-and-a-half months.

9 Q. Do you know if that was because you inquired  
10 as to his drinking?

11 A. Maybe.

12 Q. Did you have any conversation with Mr.  
13 Whalon about this new job?

14 A. No, I don't recall that we discussed what  
15 this job about or maybe. I cannot recall right  
16 now.

17 Q. And the statement that he was overwhelmed  
18 by it, you can't recall any specific details?

19 A. I just considered him being very vulnerable  
20 to any stressful situation, and any kind of new job  
21 might be overwhelming for patient who's not  
22 emotionally stable.

23 Q. When you first started treating Mr. Whalon  
24 in March of 2002, did you draw any conclusion as to



1       why he suffered from bipolar disorder?

2       A.       Why?

3       Q.       Yes.

4       A.       Probably because he had genetic  
5       predisposition, family history. His symptoms, mild  
6       symptoms appeared in his childhood, and definitely  
7       the stressful events in anybody's life who might  
8       have predisposition to develop bipolar disorder  
9       might precipitate symptoms.

10      Q.       Did you have any reason to believe in March  
11      of 2002 that there had been any such event  
12      precipitating the symptoms?

13      A.       Probably job-related situation, because like  
14      I find out right now and you refresh my memory, that  
15      he was fired from his job.

16      Q.       Well, we are sort of looking back now many  
17      years, Doctor. I am asking --

18      A.       Yes.

19      Q.       -- the conclusions that you drew at the time  
20      you saw him.

21      A.       So because of stressful situation in his  
22      life, his symptoms might get worse, but it's not the  
23      reason for his bipolar disorder.

24      Q.       So stressors in life could aggravate --

1 A. He never presented with me actively  
2 suicidal.

3 Q. And you last saw Mr. Whalon on what date,  
4 April 19th?

5 A. April 19, 2005.

6 Q. April 19, 2005. And can you tell us how Mr.  
7 Whalon was doing on April 19th of 2005?

8 A. By my record, he reported to not bad, not  
9 depressed, less anxious, no racing thoughts,  
10 sleeping good at night, complying with medications.  
11 The issue which I addressed with him prior to this  
12 last visit he didn't address with primary-care  
13 physician, and the issue was about increase in his  
14 cholesterol and triglycerides, which I discovered in  
15 his last lab report. So he continued taking  
16 medications when last time I saw him and was doing  
17 relatively stable on this medications.

18 Q. And did you draw any conclusions over the  
19 three years that you treated Mr. Whalon?

20 A. About what?

21 Q. About his condition, his prognosis?

22 A. His prognosis, like in people with bipolar  
23 disorder, I would say guarded, because it's  
24 unpredictable what other stressful events or